

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 65

Date Signed: February 28, 1991

MEMORANDUM

SUBJECT: Final SNC Definition for the SWTR

FROM: Connie Bosma, Chief (Signed by Ray Enyeart)
Drinking Water Branch, ODW (WH-550E)

TO: Drinking Water/Ground Water Protection Branch Chiefs
Regions I - X

This memorandum transmits the final Significant Non-Complier (SNC) definition for the Surface Water Treatment Rule (SWTR). The final SNC definition for the Total Coliform Rule (TCR) was sent out by my memorandum of December 19, 1990. The SNC definition for the TCR was finalized as a result of the Drinking Water Branch Chief's Meeting, held during the week of December 3, 1990. Unfortunately, we were unable to reach closure on the SNC definition for the SWTR Rule during the meeting.

Two items presented difficulties in finalizing the SNC definition for the SWTR. First, some Regions expressed concern over the weight that monitoring and reporting violations carried in the proposed SWTR SNC definition. These Regions believed that the definition, as proposed, was overly stringent for unfiltered systems because, under certain circumstances, a system could become an SNC with as few as three monitoring and reporting violations in a year. This valid concern prompted us to propose the reintroduction of major and minor categories for monitoring and reporting violations. A conference call was held on February 26 to discuss our proposal. The Regions on the call agreed that the major/minor distinction should be made. Attachment 1 contains the definitions of major and minor that will be used in SNC determination for the SWTR.

Secondly, there was concern over the proposal for unfiltered systems requiring filtration -- that if these systems failed to install filtration, they would become SNCs the day after they were required to do so. Since filtration will be required for many systems on a date certain [June 29, 1993] there was concern that there would be a cluster of SNCs created on that single date, and that it was unrealistic to expect that all would be appropriately addressed within in the following six months.

We believe this potential situation can be avoided by "addressing" such systems before they become SNCs. States can, and should, issue actions to systems as soon as they know that the system will be unable to meet the required deadline. If States follow such a policy, they will be able to stagger

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their workload prior to the June 29, 1993 date. While this approach will not lessen the number of SNCs which occur on June 29, 1993, it will allow for the majority of those SNCs to already be appropriately addressed by that date.

The sole restriction to the above policy is that Bilateral Compliance Agreements (BCAs), one of the four traditional "appropriate" enforcement actions, may not be used for larger unfiltered systems (those serving 10,000 or more people). Since BCAs are not independently enforceable, we do not believe they are appropriate tools, in this instance, for larger systems. BCAs, however, remain appropriate actions for those unfiltered systems serving less than 10,000 people. **[Regions and States should note, however, that if a small system violates the schedule of a BCA, the State must move to an administrative order or to a civil referral.]** In spite of this restriction, we believe that most of the potential SNCs should be able to be addressed quickly and need not become "exceptions".

Please call Clive Davies at (202)260-1421 or Betsy Devlin at (202)564-2245 with any questions.

Attachment

cc: Office of Enforcement (Kathy Summerlee)
Bob Blanco
PWSS Enforcement Coordinators, Regions I - X
Wade Miller (ASDWA)

MAJOR AND MINOR M/R VIOLATIONS

M/R violations for the SWTR rule will be separated into two categories: major and minor.

Major Violators: Systems that fail to take at least 90% of the required samples per reporting period.

Minor Violators: Any other violators.

Note: This definition will apply to both unfiltered and filtered sources. The definition considers all samples required by the SWTR (lumped into one category --source water coliform and turbidity, disinfectant residual, etc.). For example, if a system is required to take a total of 460 samples per month, the system would be classified a minor M/R violator if it took 414 samples. The system would be major M/R violator if it took 413 or fewer samples. A more detailed explanation can be found in Appendix D of the implementation manual for the SWTR.

*Attachment 1 - M/R Violations***FINAL SNC DEFINITION FOR THE SWTR****Unfiltered Systems****SNCs (Tier 1):**

- ! A system informed of the requirement to filter before Jan., 1992 that does not install filtration by June 29, 1993,
- or-
- ! A system informed of the requirement to filter after December 1991 that does not install filtration within 18 months of being informed that filtration is required,
- or-
- ! A system that has three or more major M/R violations in any 12 consecutive months,

Tier 2:

- ! A system that has two major M/R violations in any 12 consecutive months,
- or-
- ! A system that has six or more minor M/R violations in any 12 consecutive months,

Tier 3:

- ! All other violators.

Filtered Systems**SNCs (Tier 1):**

- ! A system that has four or more treatment technique violations in any 12 consecutive months,
- or-
- ! A system that has a combination of six violations including treatment technique

violations and major M/R violations in any 12 consecutive months,

Attachment 2 - SWTR SNC Definition

Tier 2:

- ! A system that has two or three treatment technique violations in any 12 consecutive months,
-or-
- ! A system that has a combination of three, four, or five violations including treatment technique violations and major M/R violations in any 12 consecutive months,
-or-
- ! A system that has a combination of six or more violations including treatment technique violations, major M/R violations and minor M/R violations in any 12 consecutive months,

Tier 3:

- ! All other violators.

Attachment 2 - SWTR SNC Definition